

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES -- GENERAL

Case No. **CV 18-9764-JFW(AGRx)**

Date: February 6, 2019

Title: Vivi Stafford -v- Avenal Community Health Center, et al.

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

Shannon Reilly
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS (IN CHAMBERS):

**ORDER GRANTING IN PART, DENYING IN PART
DEFENDANT'S MOTION TO (1) DISMISS OR, IN THE
ALTERNATIVE, QUASH SERVICE OF PROCESS (Rule
12(b)(4)); AND (2) DISMISS FOR IMPROPER VENUE,
OR IN THE ALTERNATIVE, TRANSFER VENUE TO
THE EASTERN DISTRICT OF CALIFORNIA (Rule
12(b)(3)) [filed 1/23/2019; Docket No. 10]**

On January 23, 2019, Defendants Avenal Community Health Center and Khuong Phui, D.O. (collectively, "Defendants") filed a Motion to (1) Dismiss or, in the Alternative, Quash Service of Process (Rule 12(b)(4)); and (2) Dismiss for Improper Venue, or in the Alternative, Transfer Venue to the Eastern District of California (Rule 12(b)(3)). Plaintiff Vivi Stafford ("Plaintiff") did not file an Opposition. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for February 25, 2019 is hereby vacated and the matter taken off calendar. After considering the moving papers, and the arguments therein, the Court rules as follows:

Pursuant to Local Rule 7-9, Plaintiff was required to file and serve her Opposition or Notice of Non-Opposition "not later than twenty-one (21) days before the date designated for the hearing of the motion," or February 4, 2019. See Local Rule 7-9. Local Rule 7-12 provides that "[t]he failure to file any required document, or the failure to file it within the deadline, may be deemed consent to the granting . . . of the motion." See Local Rule 7-12. As of February 5, 2019, Plaintiff has not filed an Opposition to Defendants' Motion. Pursuant to Local Rule 7-12, the Court deems Plaintiff's failure to file an Opposition or to otherwise comply with Local Rule 7-9 as consent to the granting of Defendants' Motion.

Accordingly, in light of Plaintiff's deemed consent and for the reasons stated in Defendants'

Motion, the Court concludes that venue is improper in the Central District, and in the interest of justice, **GRANTS** Defendants' Motion to Transfer Venue to the Eastern District of California. Defendants' Motion to Dismiss or, in the Alternative Quash Service of Process is **DENIED without prejudice** to re-filing in the Eastern District of California. The Clerk shall transfer this action to the Eastern District of California.

IT IS SO ORDERED.